

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 05-40

December 16, 2005

GIFTS EXCEPTION NO. 2005-5

RE: May the Chief of Staff to the Governor's Office for Local Development accept wedding gifts from persons or businesses that work for local governments that may be regulated by and/or applying for grants from the Governor's Office of Local Development?

DECISION: Yes, provided the gifts are reasonable in value.

This opinion is issued in response to your November 18, 2005 request for an exemption to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 2005 meeting of the Commission and the following opinion/exemption is issued.

You state the relevant facts as follows. The Chief of Staff to the Governor's Office for Local Development was married on October 22, 2005, and received a number of wedding gifts of the type customarily received on such special occasions from family members, friends, and wedding guests. Many of these gifts were given to the employee by officials who work for local governments that are regulated by and/or apply for grants from the Governor's Office for Local Development.

Based on a review of the statutory provisions, you do not believe that the Chief of Staff's acceptance of wedding gifts creates an appearance of impropriety as envisioned by KRS Chapter 11A. You request the Commission to issue an exemption granting the Chief of Staff authorization to accept and keep the wedding gifts under KRS 11A.045. You further request an exemption of the reporting of such gifts under KRS 11A.050.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

Additionally, KRS 11A.050(3)(k) provides:

(3) The statement shall include the following information for the preceding calendar year:

...

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children, except those from a member of the filer's family;

Based on the language above, the Chief of Staff is prohibited from accepting gifts with a value of over \$25 from any person or business doing business with, regulated by, or attempting to influence his official actions or the actions of his state agency (Governor's Office for Local Development) or any other agency over which the employee would have authority to supervise.

However, the Chief of Staff is not prohibited from accepting gifts from persons or businesses that do business with, are regulated by, or are attempting to influence the actions of state agencies for which he doesn't work or have supervisory authority.

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 05-40 (GIFTS EXCEPTION No. 2005-5)
December 16, 2005
Page Three

Additionally, the Commission grants an exception, pursuant to KRS 11A.045(1), for the Chief of Staff to accept customary wedding gifts from persons or businesses that may do business with, be regulated by, or be attempting to influence his official actions or the actions of his state agency (Governor's Office of Local Development), provided such gifts are reasonable in value.

The Commission does not have the authority to exempt the Chief of Staff from reporting requirements in KRS 11A.050. Thus, the Chief of Staff must report any gift received if it has a value of more than \$200 and it is not from a family member.

Sincerely

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: John A. Webb